

temporary disconnection. Final disconnection of basic local exchange service, in the staff's view, contemplates continued provision of access to 9-1-1 service. With respect to all other service categories besides basic local exchange service, the real difference between temporary and final disconnection is only that, during a period of temporary disconnection, payment of all outstanding service charges and reconnection fees pertaining to that service category (and also all categories which are entitled to higher priority of payment status) will result in reconnection, whereas once final disconnection has occurred, new service installation fees, rather than reconnection fees, in addition to payment of any still outstanding service charges, must be incurred before service could be restored.

- 5) Inasmuch as the staff proposal entails the concept of separate disconnection for different service categories, with each service category subject to the possibility of reconnection either before or during a period of temporary disconnection, as affected by certain priority of partial payment allocations, the staff anticipates that 4901:1-5-34(C)(3), O.A.C., which presently indicates that notice of disconnection must clearly state any actions which the subscriber must take to avoid disconnection, will need to be revised so as to indicate that the notice must specify what steps the subscriber must take to avoid disconnection within each respective service category in which disconnection is threatened.

Rule 4901:1-5-35

- 1) This rule, as it presently exists, pertains to reconnection of residential and nonresidential service. The staff anticipates that it will need to be revised so as to be consistent with the staff's proposal. Essentially the revision should serve to clarify that reconnection may still occur, but that, reconnection of different categories of service would occur only when all outstanding charges and reconnection fees within each respective service

category have been paid and partial payments, if any, have been applied in accordance with the order of priority considerations set forth in staff proposed Rule IV.

- 2) The staff believes that, to the extent the Commission adopts the concept of placing a ceiling on the amount which LECs may impose on residential subscribers, in terms of a re-connection fee for each category of service, it might be appropriate to add an additional provision to this rule which would impose such a ceiling.

Below is a set of assumptions, most of which the Staff finds to be grounded in basic notions of fair play, which the staff employed in drafting its proposal:

ASSUMPTIONS MADE BY STAFF

1. Disconnection is a harsh, though sometimes necessary, method of enforcing payment for service already rendered. Companies which, either on their own or acting through an agent, impose disconnection procedures, should be under an affirmative duty to fully inform subscribers of the minimum steps which the customer could take to avoid disconnection.

2. The threat of disconnection of a regulated utility service may not be used as a hammer to force payment on charges for nonregulated services of any kind. Failure to pay a non-utility bill, for example a bill for cable TV service, should never directly result in the loss of any utility service.

3. In situations where termination (disconnection) of service is a possible consequence for failure to pay for that specific service, that method of enforcing payment should be employed rather than any possible termination (disconnection) of some second service for failure to pay for the first service.

4. Local exchange service, as a most basic form of telephone service, and a sine qua non to interexchange carrier service, should ordinarily be the first service towards which partial payment to a LEC should be applied and the last service to be disconnected.

5. Interexchange service is less basic than local exchange service and more basic than discretionary services of any kind. As such, as regards applying a partial payment to a LEC, it should rank in priority just below local exchange service but above discretionary services.

6. When a partial payment of toll charges is made to a LEC, the LEC should be permitted to prioritize LEC-provided toll charges over those of an IXC for whom the LEC also happens to be a toll billing and collection agent.

7. When a partial payment of discretionary service charges is made to a LEC, the LEC should be permitted to prioritize LEC-provided discretionary service charges over those of an IXC for whom the LEC also happens to be a toll billing and collection agent.

8. Deposit requirements associated with any particular type of service should be imposed on behalf of the company offering the service only, and should never be permitted to have bearing on the ability of the customer to obtain or retain either any other more basic service from that same company or any service at all from another company (including any company which is a billing and collection agent for the first company).

9. Reconnection of service, being less expensive than installation of new service once full disconnection has occurred, should be preferred over new installation and extended as an available option to a customer who is threatened with disconnection for nonpayment for a reasonable period of time.

10. Companies should be permitted to charge reasonable reconnection service fees, but such fees should not be so excessive as to discourage subscribers from attempting, once payment for past due charges has been paid in full, to re-establish a service which has been disconnected for nonpayment.

11. Disconnection and reconnection of services should be treated according to category: with local, toll, and discretionary services each falling into one of three distinct respective categories. This is necessary to ensure that more basic services will be more protected from disconnection than less basic services.

The Staff believes that there may be particular circumstances, in which a LEC's compliance with the staff's proposed disconnection policy might be barred by technological barriers of one form or another. The Staff is not in a position to assess these situations without further information. Appendix C contains the staff proposed procedure for allowing the LECs to bring such situations to the attention of the Commission and its staff, either during the pendency of the the 95-790 docket, or possibly, after the adoption by the Commission of the staff's proposed disconnection policy, whether in whole or in part.

APPENDIX B

- I. Disconnection of either residential or nonresidential local exchange service by a local exchange company (LEC) is prohibited for the nonpayment of any unregulated service charges (including 900 and 976-like services).
- II. Disconnection of either residential or nonresidential local exchange service by a LEC for the nonpayment of interexchange carrier (IXC) services is prohibited, irrespective of whether a local exchange company (LEC) is the billing and collection agent of the interexchange carrier (IXC), in all situations where it is technologically feasible (for example, at all Feature Group D central offices) to separate interexchange service disconnection (including by means of toll blocking or toll restriction) from local exchange service disconnection.
- III. Disconnection of residential local exchange service by a LEC for nonpayment of LEC-provided toll services or discretionary services (such as custom calling services and custom local area signaling service) is prohibited.
- IV. Unless the subscriber, in making a payment, directs otherwise, a residential or non-residential subscribers' partial payment to a LEC shall be applied first towards the full satisfaction of charges outstanding at the time payment is tendered in each category, in addition to any applicable State and/or Federal taxes due, and only thereafter towards outstanding charges in the next respective category in succession, according to the following order of priority:
 - (1) local loop and central office termination (i.e., local access);
 - (2) the subscriber line charge;
 - (3) 9-1-1 service charges;
 - (4) local usage (e.g., flat rate, message, measured calling, etc.);
 - (5) LEC-provided toll services;

- (6) IXC-provided toll services;
- (7) LEC-provided discretionary services;
- (8) any other regulated LEC-provided services;
- (9) any other regulated IXC-provided services for which the LEC acts as the IXC's billing and collection agent; and
- (10) LEC provided unregulated services.

V. Unless the customer requests otherwise, when disconnecting a residential subscriber's local exchange service pursuant to Rule 4901:1-5-31, O.A.C., LECs are under an affirmative duty to continue providing two components of that service, namely 9-1-1 access and incoming call receiving capability, for a period of at least 30 days beyond the date of the LEC's compliance with all pertinent disconnection notice requirements set forth in that rule. During this minimum 30-day period, the LEC may continue to assess the subscriber line charge, the 9-1-1 charge, and, so long as it is unbundled from the LEC's local usage rate (including the rate for touch-tone service, if any), its local access charge. The LEC shall not be permitted to assess any local usage charges during the minimum 30-day period. Final disconnection of service (i.e., termination of incoming call receiving capability) may occur, in accordance with Rule 4901:1-5-31, O.A.C., anytime after such 30-day period has expired. Even after final termination, where it is technologically and economically feasible for the company to do so, the company shall continue to provide access to 9-1-1 service.

VI. The LEC may assess from residential and non-residential customers a nonrecurring service order charge, to the extent one is provided for in the company's tariff, each time reconnection of service, within one of three service categories, occurs. For the purposes of these proposed rules, the three categories of local service are as follows: (1) basic local exchange service, (2) LEC-provided toll, and (3) discretionary services. Companies may not establish a nonrecurring service order charge exceeding \$10.00 for the reconnection

of basic local exchange service, or for the connection of any one particular service in any of the three categories. Service in any one category may not be reconnected, and the nonrecurring service charge order shall not be applied towards reconnection of service within that category, unless and until either all arrearages within that category have been paid or an acceptable payment agreement concerning such arrearages has been reached between the company and the customer.

- VII. LECs are prohibited from denying to a prospective residential or nonresidential customer access to local exchange service solely on the basis of that customer's inability to meet the deposit requirements of an IXC, including one for whom the LEC is acting as a billing and collection agent. A LEC which, acting as a billing and collection agent for an IXC, informs the IXC's prospective residential or nonresidential customer of his or her inability to meet the deposit requirements of the IXC must, at the same time, inform the potential customer that he or she can request service from an IXC that provides its own billing and collection services.
- VIII. When ordering service, all residential and non-residential customers shall be afforded the option to block all toll services (i.e., both LEC and IXC). The company may assess residential customers a nonrecurring service order charge, not to exceed \$10.00, to establish this service. No recurring charges shall be assessed to residential customers for provision of toll blocking service.
- IX. In addition to the full amount past due, disconnection notices shall inform residential and non-residential subscribers of the minimum amount past due and payable to avoid service disconnection in each service category which is subject to separate disconnection (as described in Rule IV, above). In addition, disconnection notices shall inform residential and nonresidential subscribers of the minimum amount past due and payable to avoid final service disconnection under the procedure described in Rule V, above.

APPENDIX C

In the event a company filing comments on these proposed rules believes any of the rules to be technologically unfeasible, it is instructed to provide the Commission with a sworn statement which provides a detailed explanations as where and why these proposed requirements cannot be met, and is further required to provide, by means of a sworn statement; a detailed schedule as to when and where these requirements can be met. Moreover, commenting LECs are instructed to file, by means of a sworn statement, detailed explanations concerning any technological obstacles associated with the Staff's proposal concerning permitting disconnected customers to continue to receive incoming calls and access to 9-1-1 services for a 30-day period.